

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-285-E

PETITION OF THE NORWOOD SCHOOL, INC.

OPINION OF THE BOARD

(Opinion Adopted December 8, 2010)

(Effective Date of Opinion: December 16, 2010)

Case No. S-285-E is an application by The Norwood School modify its special exception to build four new buildings, increase student enrollment by 7%, increase summer camp enrollment by 52%, increase staff, extend hours, and hold four large-scale, non-school related community events, and smaller after-hours auxiliary community enrichment programs. The school proposes to implement the modification in four phases over the next ten years and tied to the speed at which it can raise funding for the project.

The Hearing Examiner for Montgomery County held hearings on the application on July 20, 2010, July 21, 2010 and on September 13, 2010. The record in the case closed on September 22, 2010. On November 24, 2010, the Hearing Examiner issued a Notice of Order Extending Time for Submission of Hearing Examiner's Report together with his Report and Recommendation for approval of the modification, with conditions.

Decision of the Board:	Special Exception Modification Granted Subject to Conditions Enumerated Below.
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The Board of Appeals considered the Hearing Examiner's Report at its Worksession on December 8, 2010. After careful consideration and review of the record in the case, the Board makes changes, (as indicated in **boldface type** below), to Condition No. 10, to increase the frequency of traffic monitoring, and to Condition 13, to increase the number of submissions of the Community Liaison

Council's minutes, and with those changes, adopts the Report and Recommendation and grants the modification subject to the following Conditions:

1. All terms and conditions of the previously approved special exception shall remain in full force and effect, except as modified in this proceeding. Norwood's statement of operations and its special exception exhibits must be amended to include all changes required by these conditions.

2. Physical improvements are limited to those shown on the landscape and site plans including ex. 25(oo), ex. 42(a)-(j), ex. 44(a)-(g). New structures shall conform generally to those depicted on ex. 4(j)-(p), 4(r)-(s), 25(uu), 25 (ww).

3. All building-mounted lights should cast light downward only and all other lights should be shielded.

4. Lights illuminating signposts at entrances to the Norwood campus shall be extinguished between 11 p.m. and 7 a.m. Petitioner is encouraged to reduce lighting on buildings and lots authorized to be constructed in this proceeding to a minimum consistent with safety and security between 11:00 p.m. and 7:00 a.m. (5 a.m. for the pool building). Security lighting should, so far as possible, be activated by motion sensors.

5. Petitioner shall provide an eight-foot-wide shared use path along the Md. 190 frontage and a five-foot-wide asphalt pedestrian path along its Md. 191 frontage in accordance with ex. 43(a)-(c), subject to Maryland State Highway Administration review and approval. The shared use path and pedestrian path shall be constructed during Phase II.

6. Petitioner may establish a school resident manager's residence, office, and storage space in the existing single-family structure near the Bradley Boulevard entrance.

7. Petitioner shall provide additional native evergreen screening (e.g., American Holly) around the central parking area and the parking area adjacent to the Head Master's residence. Screening provided in the forest conservation easements must be approved by the Planning Department's environmental inspector to verify location and species used.

8. Petitioner shall comply with the final County-approved forest conservation and final County-approved stormwater management plans.

9. Petitioner must file an amended preliminary plan of subdivision, at which time the APF test will be done.

10. No peak-hour trips generated by petitioner's operations may exceed 753 and 269 during morning and afternoon peak-hours, respectively. A monitoring

system of traffic counts at the site must be submitted to the Planning Department who will forward a finding to the Board of Appeals stating whether the traffic cap has been maintained. Monitoring must include at least one traffic count on a representative day **in Fall, Winter and Spring during** the school year, and one traffic count on a representative day during the summer camp season. In the two years following completion of phase IV of petitioner's development plan, there shall be two traffic counts during the summer camp season.¹

11. Petitioner must implement its transportation management plan (TMP), ex 25(yy). It must make a busing program available to children in both its school-year and summer program. No fewer than six petitioner-owned buses shall be included in the busing program by phase IV. All leased buses, if any, shall be stored off-campus.

12. No phase of development – either physical or operational – shall proceed until the Planning Department forwards a finding to the Board of Appeals stating that the morning and afternoon trip caps have been maintained and that petitioner has fully complied with the TMP.

13. Petitioner shall establish a community liaison council (CLC) to address operating impacts and other issues of concern to the community and/or petitioner. The CLC shall consist of petitioner's representative and representatives from any civic association or homeowners association within the neighborhood (as defined in this report) wishing to participate. Adjacent and confronting neighbors must also be invited to participate. A representative from the County shall be invited to participate as *ex officio*. Meetings must be held at least four times per year unless a majority of the CLC (not including petitioner's representative) votes to conduct fewer meetings. Minutes describing all issues raised by community representatives or neighbors, and how they were resolved, must be kept by petitioner and filed with the Board of Appeals **twice per year**. Petitioner shall provide the CLC with all traffic counts conducted in accordance with conditions nos. 9 and 13.

14. Whenever a traffic count shows that a peak-hour cap has been exceeded, petitioner will convene the CLC within 7 days and take measures to reduce traffic volume. Petitioner shall take a second traffic count within 15 days of the first count. If the second count shows that traffic still exceeds the cap, petitioner shall immediately initiate compulsory car-pooling, compulsory busing, population reductions, or scheduling changes until petitioner can demonstrate to the Board of Appeals and the Planning Department that peak-hour traffic has fallen to or below the cap.

¹ This conditions was modified on a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with Walter S. Booth and Catherine G. Titus, Chair, in agreement and David K. Perdue not in agreement.

15. Hours of operation for any on-site activity are permitted from 7:00 a.m. until 11:00 p.m., seven days per week, with the exception of the natatorium (indoor pool), which may open at 5:00 a.m.

16. Access to the natatorium between 5:00 a.m. and 7a.m. shall be limited to regularly-enrolled Norwood students and campers, members of the school staff, and to no more than 20 others.

17. The following activities are permitted during the school year (generally August 31 – June 16): before care and pre-K - 8th grade school programs for Norwood students including the Mid-Atlantic Teacher's Institute (MATI). Also permitted are events and activities that are related to the operation of a private educational institution for the use of students enrolled during the school year, including school dances, secondary school placement fair, spring picnics, student/parent breakfasts and dinners, athletic banquet, silent auction, parents and grandparents visiting days, musical and theatrical performances, athletics, multicultural fair and other social activities for students, campers, or their parents.

18. Regular school year operations shall be limited to an enrollment of no more than 600 students. Staff, including part-time employees, Mid-Atlantic Teacher Institute personnel, contractors, and others (but excluding volunteers, visiting coaches and parents) shall not exceed 160 in phase I, 180 in phases II and III, and 200 in phase IV and beyond.

19. A summer program is permitted under the following conditions. The summer program must be conducted for no more than 10 weeks. Summer operations may include summer day and twilight camps, including before- and after-care and recreational activities, and Horizons at Norwood. Enrollment in the summer programs is limited to 650 children in phase 1, 775 in phases II and III, and 850 in phase IV and beyond, including juvenile camp counselors and Horizon students. Staff, including part-time employees, Mid-Atlantic Teacher Institute personnel, contractors, and others (but excluding volunteers, visiting coaches and parents) shall not exceed 160 in phase I, 180 in phases II and III, and 200 in phase IV and beyond.

20. The Board of Appeals shall retain jurisdiction over the case until further notice to determine, based on an annual review, whether summer activities or auxiliary programs described in the following paragraphs are having an excessive adverse impact on the neighborhood. The CLC may report to the Board that additional conditions are necessary to curb adverse effects from the summer activities or from one or more of the activities described in conditions nos. 21, 22, 24, and 25.

21. Petitioner may conduct up to 4 large-scale events per year, including a Cancer Walk-A-Thon, parking for PGA tour events held at Congressional and Avenel Country Clubs, or similar activities. For purposes of the numerical

limitation in the foregoing sentence, each day an activity occurs constitutes a separate "event". Parking at the 4 events may be provided on petitioner's parking lots or in areas designated on petitioner's overflow parking plan, ex. 25(rr). No queuing on public roads is permitted. If queuing occurs for any such event, all future events must be scaled back accordingly.

22. Petitioner is authorized to conduct community accessible education, indoor/outdoor recreation, tutoring, college entrance exam prep courses, art education classes, and facility rentals for educational, community indoor/outdoor recreation, tutoring, college entrance exam prep courses, and art education uses, and other accessory uses encompassed under the Zoning Ordinance's definition of a private education institution. The Performing Arts Center may be used for no more than 7 artistic performances, education presentations, and commencement exercises for users other than Norwood per calendar year. No activity listed in this paragraph may begin before 7 p.m. on any day when the regular school or summer camp programs (as described in conditions nos. 17 and 19) are in session. The parking provisions of the TMP shall apply. No parking is permitted on driveways or non-impervious surfaces.

23. Semi-annually, petitioner shall provide the Board of Appeals, CLC, and Planning Department with the following information about each activity conducted under authority of condition no. 22: average number of attendees (including staff), days and hours of operation, and length of each activity in terms of days, weeks, or months. The Board, CLC, or Department may require additional information.

24. Petitioner may conduct daytime winter and spring break programs when school is not in session during the school year. The population limits set forth in condition no. 18 shall apply. All activities shall start and end between the hours that regular school activities would start and end were school in regular session.

25. Petitioner may provide parking on its property to local schools and other institutions on a reciprocal basis no more than three times annually. For purposes of the numerical limitation in the foregoing sentence, each day an activity occurs constitutes a separate "time." The parking provisions of the TMP applicable to normal school and camp activities shall apply. No parking is permitted on driveways or non-impervious surfaces.

27. Petitioner must obtain and satisfy the requirements of all licenses and permits including, but not limited to, building, use, and occupancy permits, necessary to occupy the new structures authorized to be constructed as a result of this proceeding.

On a motion by Catherine G. Titus, Chair, seconded by Carolyn J. Shawaker, with David K. Perdue, Vice-Chair, Walter S. Booth and Stanley B. Boyd in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 16th day of December, 2010.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.